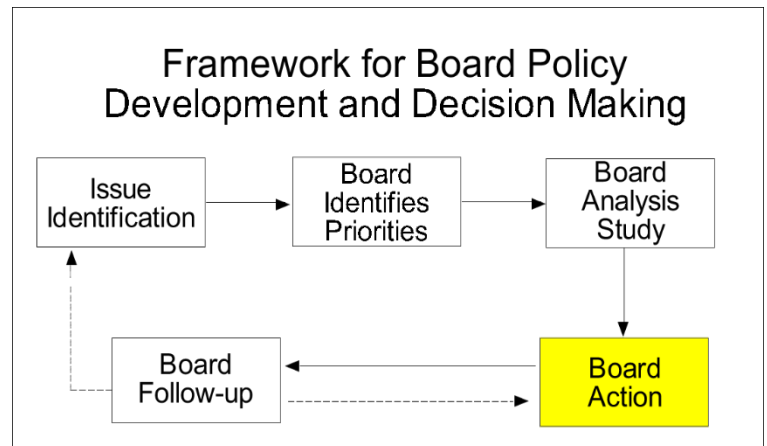


Iowa State Board of Education

Executive Summary

November 18, 2020



Agenda Item:	Rules: 281 IAC Chapter 41– Special Education (Adopt)
State Board Priority:	Creating a Safe, Healthy, and Welcoming Learning Environment
State Board Role/Authority:	Iowa Code section 256.7(5) gives the State Board of Education the statutory authority to adopt rules under Chapter 17A.
Presenter(s):	None (consent agenda)
Attachment(s):	One
Recommendation:	It is recommended that the State Board adopt amendments to Chapter 41.
Background:	<p>Senate File 2360 added conditions to special education law regarding the use of room clears as a classroom safety technique. This proposed rulemaking adds those two conditions to Chapter 41: a prohibition on including room clears in an individualized education program and a procedure for classroom teachers to call for a team meeting after a room clear is used.</p> <p>A public hearing was held on September 15, 2020, with a video conference option available. No one gave public comment. The Department received one written comment, which raised two issues. For the reasons stated in the preamble, no changes are made. Amendments are identical to those published in the Notice of Intended Action.</p>

EDUCATION DEPARTMENT[281]

Adopted and Filed

The State Board of Education hereby amends Chapter 41, “Special Education,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, Senate File 2360.

Purpose and Summary

2020 Iowa Acts, Senate File 2360, added conditions to special education law regarding the use of room clears as a classroom safety technique. This proposed rule making adds the following two conditions related to room clears to Chapter 41: a prohibition on including room clears in an individualized education program and a procedure for classroom teachers to call for a team meeting after a room clear is used.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 26, 2020, as **ARC 5151C**.

A public hearing was held on September 15, 2020, at 3:00 p.m. at Grimes State Office Building, ICN Room, Des Moines, Iowa, with a video conference option available. No one gave public comment.

The Department of Education received one written comment, which raised two issues. First, the commenter suggested that the language “necessary for a FAPE” be replaced with or modified by “called for in a student’s individualized education plan or behavior intervention plan.”

Second, the commenter questioned how the services referenced in this rule are not available in the school district or community where the school is located.

Concerning the first issue, no change is necessary. The current Administrative Code addresses the commenter's concerns. The definition of "free appropriate public education" requires services to be provided "in conformity with an individualized education program (IEP)," Iowa Administrative Code rule 281—41.17(256B,34CFR300), and an IEP must be written, *id.* rule 281—41.22(256B,34CFR300). No change is made. Concerning the second issue, the district responsible for providing a FAPE is responsible for procuring necessary services. This concern, while valid, is broader than – and beyond the scope of – this rule making. No change is made.

Amendments are identical to those published in the Notice of Intended Action.

Adoption of Rule Making

This rule making was adopted by the State Board of Education on November 18, 2020.

Fiscal Impact

While Senate File 2360 contains several appropriations, the provision implemented by this rule making, and the rule making itself, has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 20, 2021.

The following rule-making action is adopted:

Adopt the following **new** subrule 41.320(7):

41.320(7) *Clearing classrooms.* An IEP or a behavioral intervention plan shall not include provisions for clearing all other students out of the regular classroom in order to calm the child requiring special education or the child for whom a behavioral intervention plan has been implemented except as provided in Iowa Code section 279.51A as enacted by 2020 Iowa Acts, Senate File 2360.

If a student whose behavior caused a classroom clearance has an IEP or a behavioral intervention plan, the classroom teacher shall call for and be included in a review and potential revision of the student's IEP or behavioral intervention plan by the student's IEP team. The AEA, in collaboration with the school district, may, when the parent or guardian meets with the IEP team during the review or reevaluation of the student's IEP, inform the parent or guardian of individual or family counseling services available in the area. The public agencies must provide those services if those services are necessary for a FAPE.